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8 UNITED STATES BANKRUPTCY COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 LOS ANGELES DIVISION

11

12 In re: ) Case No. 2:20-bk-21022-BR  
13 )  
14 GIRARDI KEESE, ) Chapter 7  
15 )  
16 Debtor. ) MOTION FOR ORDER:  
17 )  
18 ) 1. APPOINTING ROBERT GIRARDI AS  
19 ) DEBTOR'S GUARDIAN AD LITEM; AND  
19 ) 2. EXTENSION OF TIME TO FILE  
19 ) RESPONSIVE PLEADING;  
19 ) DECLARATION OF ROBERT GIRARDI  
19 )  
19 ) [HEARING TO BE SET]

20 **TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY**

21 **JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, AND ALL**

22 **PARTIES IN INTEREST:**

23 Robert Girardi ("RG"), files this motion for (1) an order  
24 Pursuant Fed. R. Bankr. P. 1004.1 to appoint him "next friend"  
25 as Guardian ad Litem for alleged debtor Girardi Keesee ("Debtor")  
26 and for (2) an extension of time to file a responsive pleading  
27 to involuntary petitions pending against the Debtor and his  
28 partnership ("Motion").

The RG seeks an order from the Court appointing him the Debtor's guardian ad litem and extending the deadline to respond to the involuntary petitions to and including February 12, 2021.

January 13, 2021 PEÑA & SOMA, APC

By /S/ LEONARD PEÑA  
LEONARD PEÑA  
Attorneys for Robert Girardi

1       **I. MEMORANDUM OF POINTS AND AUTHORITIES**

2       **a. Relevant Facts**

3       On December 18, 2020, the petitioning creditors filed two  
4       involuntary petitions *In re Thomas Vincent Girardi* case number  
5       20-bk-21020 BR and *In re Girardi Keesee* case number 20-bk-2102 BR  
6       ("Involuntary Petitions").

7       The deadline to file a responsive pleading to the  
8       Involuntary Petitions is January 12, 2021.

9       Thomas Vincent Girardi ("TG") is the sole responsible  
10      officer of the Debtor and while appears to be aware of the  
11      filing of the Involuntary Petitions he needs to be reminded  
12      often. TG is incapable of realizing and understanding the  
13      repercussions of the bankruptcy filings pending against him and  
14      the Debtor. Furthermore, the TG is not capable of making  
15      rational decisions with respect to his or the Debtor's financial  
16      responsibilities.

17      The Debtor has been unable to engage bankruptcy counsel or  
18      respond to the Involuntary Petitions due to TG's inability to  
19      discuss, in a competent manner, the Debtor's legal and financial  
20      issues with proposed counsel.

21      Robert Girardi ("RG") is TG's brother. In addition to the  
22      filing of this Motion, RG will file a petition in the Probate  
23      Court to be appointed TG's conservator.

24      RG is willing to assist TG and the Debtor in all matters  
25      related to the bankruptcy proceedings, including but not limited  
26      to hiring counsel for the Debtor, responding to the Involuntary  
27      Petitions, appear at hearings, investigate, prepare documents,  
28      file pleadings, schedules and statements of financial affairs

1 and take all actions required by the Debtor in the cases pending  
2 before this Court.

3 RG desires to be appointed the Debtor's guardian ad litem  
4 and or next friend.

5 Appointing RG as is "next friend" as guardian ad litem will  
6 aid in administration of the Debtor's case.

7 **b. Legal Argument**

8 **i. RG Should Be Appointed The Debtor's Guardian Ad**  
9 **Litem.**

10 TG is incompetent and unable to act on behalf of the Debtor  
11 or for himself. Proceeding with the Involuntary Petitions  
12 without permitting the Debtor to participate would be a terrible  
13 injustice and it unnecessary harm and prejudice.

14 Federal Rule of Bankruptcy Procedure 1004.1 states in  
15 relevant part:

16 Rule 1004.1. Petition for an Infant or Incompetent Person  
17 Primary

18 If an infant or incompetent person has a representative,  
19 including a general guardian, committee, conservator, or  
similar fiduciary, the representative may file a voluntary  
petition on behalf of the infant or incompetent person. An  
infant or incompetent person who does not have a duly  
appointed representative may file a voluntary petition by  
next friend or guardian ad litem. The court shall appoint  
guardian ad litem for an infant or incompetent person who  
is a debtor and is not otherwise represented or shall make  
any other order to protect the infant or incompetent  
debtor.

25 The language in FRBP 1004.1 is mandatory that the Court  
26 "shall" appoint the guardian ad litem to protect the incompetent  
27 Debtor. Here, that could not be truer, here, the Debtor's  
28 responsible person is incompetent while at the same time the

1 Debtor is facing serious legal hurdles that could upend the  
2 Debtor's business and the responsibilities it has to its many  
3 clients.

ii. Extension Of Time To Respond To Voluntary Petitions.

6 Presently, the Debtor cannot respond to the Involuntary  
7 Petitions because its sole officer is unable to act and can only  
8 do so through RG and lawyers that may be hired for the Debtor.  
9 Entering an order for relief without permitting the Debtor to  
10 respond to the Involuntary Petitions would be an injustice.

RG requests that the deadline to file responses to the  
Involuntary Petitions be extended to and including February 12,  
2021 to permit the prosecution of a probate petition to appoint  
RG as the Debtor's conservator.

## **II. CONCLUSION**

16 For the foregoing reasons, Movant requests that he be  
17 appointed the Debtor's guardian ad litem and that the deadline  
18 to oppose the Involuntary Petitions be extending to an including  
19 February 12, 2021.

21 | January 13, 2021 PEÑA & SOMA, APC

By /S/ LEONARD PEÑA

LEONARD PEÑA

Attorneys for Robert Girardi

1                   DECLARATION OF ROBERT GIRARDI

2       I, Robert Girardi, declare:

3       1. I have personal knowledge of the facts set forth  
4 below, and if called to testify, I would and could competently  
5 testify thereto.

6       2. I am Thomas Girardi's brother.

7       3. I am aware that on December 18, 2020 the petitioning  
8 creditors filed two involuntary petitions *In re Thomas Vincent*  
9 *Girardi* case number 20-bk-21020 BR and *In re Girardi Keese* case  
10 number 20-bk-21022 ("Involuntary Petitions").

11      4. I am informed and believe that the deadline to file a  
12 responsive pleading to the Involuntary Petitions is January 12,  
13 2021.

14      5. I have attempted to discuss with my brother how to  
15 best respond to the Involuntary Petitions pending against the  
16 Debtor and while at times he appears to be aware of the  
17 filing of the Involuntary Petitions he needs to be reminded  
18 often.

19      6. My brother is incapable of realizing and understanding  
20 the repercussions of the bankruptcy filings pending against him  
21 and his law firm Girardi Keese notwithstanding having explained  
22 to him over and over and by various people. Furthermore, my  
23 brother is not capable of making rational decisions with respect  
24 to his financial responsibilities and offers solutions and  
25 opinions that are factually impossible.

26     / / /

27     / / /

28     / / /

1       7. My brother has short term memory loss, often asking me  
2 and those around him the same questions over and over.

3       8. My brother has been unable to engage bankruptcy  
4 counsel or respond to the Involuntary Petitions because he  
5 cannot have a reasoned conversation about the multiple legal and  
6 financial issues he is facing.

7       9. I have engaged counsel to file a petition in the  
8 Probate Court to be appointed my brother's conservator. I am  
9 informed by my attorneys that even on an expedited basis, given  
10 the notice requirements I will not be appointed until sometime  
11 at the end of January 2021.

12      10. Given my brother's current condition I am willing to  
13 assist him all way possible and in all matters related to his  
14 personal matters and the pending bankruptcy proceedings,  
15 including but not limited to hiring counsel for him, responding  
16 to the Involuntary Petitions, appear at hearings, investigate,  
17 prepare and file documents, and take all actions required of my  
18 brother in the cases pending before this Court.

19      11. I am informed and believe that once I am appointed my  
20 brother's conservator, I will be able to act on his behalf  
21 including to hire lawyers or other professionals for him that  
22 can help him through the bankruptcy cases.

23      12. In the present case, I and my brother require  
24 additional time to analyze and compile the information needed to  
25 respond to the Involuntary Petitions.

26      13. My brother has always been a private person, so I need  
27 to familiarize myself with his assets and liabilities, talk to  
28 his accountants and gather information related to his assets,

1 liabilities and multiple legal and personal challenges he is  
2 facing.

3       15. I want to do everything necessary to protect my  
4 brother's rights including responding to the Involuntary  
5 Petitions, I think that if he is not allowed to respond it will  
6 be a great detriment to him personally and financially.

7       16. Thus, I respectfully submit that since the Court has  
8 already appointed interim chapter 7 trustee in both his personal  
9 and business case I do not believe that any of the Debtor's  
10 creditors will be prejudiced by the extension of time requested  
11 herein as the trustee have already begun to administer the  
12 estates' assets.

13 I declare under penalty of perjury under the laws of the  
14 United States of America that the foregoing is true and correct  
15 to the best of my knowledge.

16        Executed on this 12th day of January 2021, at Los Angeles,  
17 California.

Ruth Goss

ROBERT GIRARDI

In re: <b>Girardi Keese</b>	Debtor(s).	CHAPTER: 7 CASE NUMBER: 20-bk-21022 BR
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
**402 South Marengo Ave., Suite B  
Pasadena, CA 91101**

A true and correct copy of the foregoing document entitled (*specify*): MOTION FOR ORDER: 1. APPOINTING ROBERT GIRARDI AS DEBTOR'S GUARDIAN AD LITEM; AND 2. EXTENSION OF TIME TO FILE RESPONSIVE PLEADING; DECLARATION OF ROBERT GIRARDI will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On 1/13/2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Andew Goodman on behalf of John Abassian	agoodman@andyglaw.com	csdavidson@swlaw.com
Andew Goodman on behalf of Virginia Antonio	agoodman@andyglaw.com	mhogan@swlaw.com
Andew Goodman on behalf of Kimberly Archie	agoodman@andyglaw.com	Ashleigh.danker@dinsmore.com
California Attorney Lending II, Inc.	represented by Clifford S Davidson Marshall J Hogan	lekvall@swelawfirm.com
William Savino represented by Ashleigh A Danker		richard.esternkin@morganlewis.com
Lei Lei Wang Ekvall		tevanston@swelawfirm.com
Richard W Esterkin		jfinsten@lurie-zepeda.com
Timothy W Evanston		jhayes@rhmfirrm.com
James Finsten		Lew@Landaunet.com
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Peter J Mastan		emiller@sulmeyerlaw.com
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Eric A Mitnick		matt@rhmfirrm.com
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Matthew D. Resnik		strok@swelawfirm.com
Ronald N Richards		tjy@lnbyb.com
Philip E Strokp		
Timothy J Yoo		
Assigned: 01/05/21		
Frantz Law Group, APLC represented by Razmig Izakelian		razmigizakelian@quinnemanuel.com
KCC Class Action Services, LLC represented by Marie E Christiansen		mchristiansen@vedderprice.com
Robert M. Keese represented by Andrew Goodman		solson@vedderprice.com
L.A. Arena Funding, LLC represented by Richard D Buckley		mquinn@vedderprice.com
Jill O'Callahan (Petitioning Creditor)	represented by Andrew Goodman	agoodman@andyglaw.com
Jason M Rund (TR) (Trustee)	represented by Carmela Pagay	richard.buckley@arentfox.com
Erika Saldana (Petitioning Creditor)	represented by Andrew Goodman	christopher.wong@arentfox.com
William F Savino (Attorney)	represented by Andrew Goodman	jillocallahan@gmail.com
Judy Selberg (Creditor)	represented by Eric Bryan Seuthe Gary A Starre	agoodman@andyglaw.com
Starre & Cohn, APC	represented by Gary A Starre	trustee@srlawyers.com
		ctp@lnbyb.com
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		agoodman@andyglaw.com
		gastarre@gmail.com

In re: <b>Girardi Keese</b>	CHAPTER 7 Debtor(s).
	CASE NUMBER 20-bk-21022 BR

Stillwell Madison, LLC (Creditor) represented by Eric D Goldberg eric.goldberg@dlapiper.com  
United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov  
Wells Fargo Vendor Financial Services, Inc. (Creditor) represented by Jennifer Witherell Crastz  
jcrastz@hrhlaw.com  
Assigned: 12/28/20

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On 1/13/2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Barry Russell  
United States Bankruptcy Court  
255 E. Temple Street, Suite 1660 / Courtroom 1668  
Los Angeles, CA 90012

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on       , I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

January 13, 2021 JULIE SOMA /S/ JULIE SOMA  
Date Printed Name Signature